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14 **UNITED STATES DISTRICT COURT**
15 **FOR THE**
16 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA, For the)
18 Use and Benefit of RENTAL SOLUTIONS,)
LLC,)

19 Plaintiff,)

20 vs.)

21 CENTRAL VALLEY CONSTRUCTION,)
INC., TPA-CKY JOINT VENTURE, CKY,)
22 INC., TAN PHUNG & ASSOCIATES,)
AMERICAN CONTRACTORS INDEMNITY)
23 COMPANY, and DOES 1-20, inclusive,)

24 Defendants.)
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Civil Action File No. C-07-4929 JL

**JOINT CASE MANAGEMENT
STATEMENT**

1 Plaintiff United States of America, for the use and benefit of RENTAL SOLUTIONS,
 2 LLC ("RENTAL SOLUTIONS") and Defendants TPA-CKY JOINT VENTURE, CKY, INC.
 3 ("CKY"), TAN PHUNG & ASSOCIATES ("TPA") and AMERICAN CONTRACTORS
 4 INDEMNITY COMPANY ("AMERICAN") hereby file the following joint statement pursuant
 5 to Civil Local Rule 16-9:

6 1. **Jurisdiction and Service.** The Court has federal question jurisdiction to hear the
 7 claims and counterclaims in this matter pursuant to the Miller Act (40 U.S.C. §§ 270a-270e), and
 8 28 U.S.C. §§1331, 1337. This Court also has supplemental jurisdiction pursuant to 28 U.S.C.
 9 §1367. As a result of a change in the name and registered agent of Defendant CENTRAL
 10 VALLEY CONSTRUCTION, INC. ("CENTRAL VALLEY"), it has not been served; however,
 11 it is anticipated that service on Defendant CENTRAL VALLEY will be accomplished prior to
 12 the scheduled CMC on December 26, 2007.

13 2. **Facts.** On or about June 30, 2005, the TPA-CKY JOINT VENTURE, a joint venture
 14 consisting of CKY and TPA was awarded a contract by the United States of America through the
 15 United States Department of the Army Corps of Engineers, more particularly identified as
 16 Contract No. W91238-05-C-0019 (the "Prime Contract,") for flood control work on the Napa
 17 River, in Napa, California.

18 On or about July 21, 2005, Defendant TPA-CKY JOINT VENTURE, as principal, and
 19 Defendant AMERICAN, as surety, executed and delivered Payment Bond, number 234122,
 20 which bond was executed and delivered in accordance with the provisions of an act of the
 21 Legislature of the United States of American, dated August 24, 1935, 49 Stat. 793, as amended
 22 (40 U.S.C. §§ 270a-270e).
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1 During the course of the performance and prosecution of the work provided for in the
2 Prime Contract, Defendant TPA-CKY JOINT VENTURE entered into a subcontract with
3 Defendant CENTRAL VALLEY for the performance and prosecution of a part of the work
4 described in the general contract between Defendant TPA-CKY JOINT VENTURE and the
5 United States of America. Between approximately July 2006 and October 2006, Plaintiff
6 RENTAL SOLUTIONS rented equipment to Defendant CENTRAL VALLEY that was used in
7 the prosecution of the work provided for in the Prime Contract. RENTAL SOLUTIONS
8 contends that Defendant CENTRAL VALLEY has failed and refused to pay the monies owing to
9 Plaintiff RENTAL SOLUTIONS for the rental equipment.

10 3. **Legal Issues.** At the present time, the parties filing this Joint Case Management
11 Statement are unaware of any disputed points of law.

12 4. **Motions.** To date, no motions have been heard in this matter. There are currently no
13 pending motions. The parties jointly filing this statement do not know at this time whether any
14 motions will need to be filed.

15 5. **Amendment of Pleadings.** Plaintiff recently learned that due to its suspension by the
16 California Secretary of State, Defendant CENTRAL VALLEY has changed its name to
17 CENTRAL VALLEY CONSTRUCTION ENGINEERING, INC. Accordingly, Plaintiff
18 RENTAL SOLUTIONS anticipates amending its Complaint to name CENTRAL VALLEY
19 CONSTRUCTION ENGINEERING, INC. as a defendant herein, and to make alter ego
20 allegations against CENTRAL VALLEY CONSTRUCTION ENGINEERING, INC. This
21 amendment will be completed by January 10, 2008.

22 6. **Evidence Preservation.** The parties jointly filing this statement have preserved all
23 relevant evidence.
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1 7. **Disclosures.** The parties jointly filing this statement have timely compiled with the
2 initial disclosure requirements under Federal Rule of Civil Procedure 26(f).

3 8. **Discovery.** No discovery has been conducted to date. The parties to this joint
4 statement propose no limitations or modifications of the rules of discovery, other than as may be
5 set forth in the Discovery Plan agreed to below.

6 The parties propose the following discovery plan:

7 **Interrogatories:** Plaintiff RENTAL SOLUTIONS and Defendants TPA-CKY JOINT
8 VENTURE, CKY, TPA and AMERICAN (collectively), and Defendant CENTRAL VALLEY
9 shall each be allowed 50 written interrogatories pursuant to FRCP 33.

10 **Requests for Admission.** Plaintiff RENTAL SOLUTIONS and Defendants
11 TPA-CKY JOINT VENTURE, CKY, TPA and AMERICAN (collectively), and Defendant
12 CENTRAL VALLEY shall each be allowed 50 requests for admission under FRCP 33.

13 **Depositions:** Plaintiff RENTAL SOLUTIONS and Defendants TPA-CKY JOINT
14 VENTURE, CKY, TPA and AMERICAN (collectively), and Defendant CENTRAL VALLEY
15 shall each be allowed up to 6 depositions on oral examination.

16 **Requests for Production.** Plaintiff RENTAL SOLUTIONS and Defendants
17 TPA-CKY JOINT VENTURE, CKY, TPA, and AMERICAN (collectively), and Defendant
18 CENTRAL VALLEY shall each be allowed 25 requests for production under FRCP 34.

19 9. **Class Action.** Not applicable to the instant action.

20 10. **Related Cases.** As reported in the Notice of Pendency of Related Action
21 previously filed in this matter, a related action, Civil Action File No. C 07-01568 MJJ, has been
22 filed in the United States District Court, Northern District of California, San Francisco Division.
23 Said related suit was filed by Use Plaintiff ECCO EQUIPMENT CORPORATION against
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1 Defendants CENTRAL VALLEY, CKY, TPA and AMERICAN for enforcement of the same
2 Miller Act Payment Bond that Plaintiff RENTAL SOLUTIONS, LLC seeks to enforce in the
3 instant action.

4 11. **Relief.** Plaintiff RENTAL SOLUTIONS seeks rentals totaling \$41,629.75, after
5 deducting all just credits and offsets, plus statutory interest, late charges, attorney's fees and
6 costs of suit herein incurred, and for such other and further relief as the Court deems just and
7 equitable. Defendant TPA-CKY JOINT VENTURE has filed a cross-action and it seeks express
8 and implied indemnity from Defendant CENTRAL VALLEY for all amounts recovered against
9 it in this action.

10 12. **ADR.** The parties have complied with ADR L.R. 3-5, and the parties to this
11 statement have agreed to mediate the instant dispute. As Defendant CENTRAL VALLEY has
12 not yet been served (for the reasons set forth above) in this action, prospects for settlement are
13 presently unclear.

14 13. **Consent to Magistrate Judge.** The parties to this statement do not consent to a
15 Magistrate Judge for all further proceedings, and believe that this action should be transferred to
16 the Judge Martin J. Jenkins, who is presiding over the related action (discussed above), given his
17 familiarity with the parties and issues in the instant matter.

18 14. **Other References.** The parties do not believe that this matter is suitable for
19 reference to binding arbitration, a special master or the Judicial Panel on Multidistrict Litigation.

20 15. **Narrowing of Issues.** At the present time, the parties to this joint statement are
21 unaware of any issues that can be narrowed by agreement or motion. The parties will work in
22 good faith to stipulate to all uncontested facts prior to the time of trial. The parties do not
23 anticipate the need to bifurcate any issues, claims or defenses.
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1 16. **Expedited Schedule.** The parties to this statement do not believe that this matter
2 can be handled on expedited basis.

3 17. **Scheduling.** The parties to this statement propose the following deadlines.

4 **Discovery Cut-Off Date: July 1, 2008**

5 **Last Date for Dispositive Motions to be Heard: September 1, 2008**

6 **Final Pretrial Conference: October 15, 2008**

7 **Trial Date: November 3, 2008**

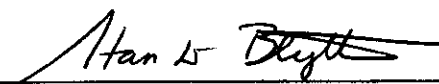
8 18. **Trial:** This case shall be tried to the Court. The parties to this joint statement
9 believe that the trial will last 5 days.

10 19. **Disclosure of Non-party Interested Entities or Persons.** The parties to this joint
11 statement have complied with the certification requirement of Local Rule 3-16.

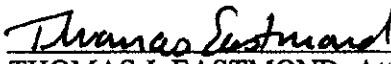
12 20. **Other Matters.** At the present time, the parties are unaware of any other matters
13 that may facilitate the just, speedy and inexpensive resolution of this matter.
14

15 Dated: December 19, 2007

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